

**BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Develop a
Successor to Existing Net Energy Metering
Tariffs Pursuant to Public Utilities Code
Section 2827.1, and to Address Other Issues
Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

**COMMENTS OF THE ENERGY FREEDOM COALITION OF AMERICA, LLC
REGARDING IMPLEMENTATION OF ASSEMBLY BILL 693**

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In accord with Administrative Law Judge (ALJ) Anne E. Simon’s Ruling Seeking
Proposals and Comments on Implementation of Assembly Bill (AB) 693 issued on July 8, 2016,
the Energy Freedom Coalition of America (EFCA) respectfully submits the following comments.

I. Description of the Energy Freedom Coalition of America

EFCA is a national advocacy group formed under the laws of the state of Delaware.
EFCA is an organization that seeks to promote public awareness of the benefits of solar and
alternative energy through public advocacy, and promotes the use of rooftop and other customer-
owned and third-party owned distributed solar electrical generation for residential and
commercial uses. EFCA also advocates for energy storage applications in the electric power
industry and for a “future grid” for electricity that could enhance consumer choice, improve
resiliency and increase operational and cost efficiencies.

II. Introduction

EFCA member companies have had a long history of engaging in the Multifamily

Affordable Solar Housing (MASH) program and look forward to an expeditious implementation of AB 693 in order to continue growing and addressing this important market segment. From 2008 to 2015, the MASH program enabled the installation of over 23 MW of solar capacity serving more than 6,500 low income households across California.¹ As is evidenced by the full subscription of the current MASH program, there is high demand for MASH incentives. AB 693 recognized this high demand and aims to provide primary and direct tenant benefits from solar generation to low-income residents utilizing the structure of the current MASH program.

There are four key objectives EFCA urges the Commission to consider in implementing AB 693 and establishing the Multifamily Affordable Solar Housing Roofs (MASHR) program:

- Offset as much tenant load as possible while ensuring incentives for property owners are attractive enough to continue to drive their program participation.
- Meet the goals established in AB 693 to grow the MASH market to the deployment target of at least 300 megawatts (MW),²
- Utilize the current MASH program structure to implement and distribute AB 693 funds (up to \$100 million annually) due to its proven effectiveness and ability to streamline the implementation process, and
- Recognize that the MASHR program is one component in a larger portfolio that must be implemented and evaluated to meet the disadvantaged communities (DAC) requirement in AB 327.³

The MASHR program is primarily intended to offset electricity usage by low income customers by deploying at least 300 MW of solar capacity in multi-family affordable housing

¹ Environmental Protection Agency, Case Study: California Multifamily Affordable Solar Housing Program, p. 1, available at https://www.epa.gov/sites/production/files/2016-06/documents/mash_case_study_6-1-16_508.pdf.

² See Cal. Pub. Util. Code § 2870(f)(1).

³ See Cal. Pub. Util. Code § 2827.1(b)(1).

residences. In order to meet this target in an efficient and cost effective manner, it will be critical to build off of the existing the MASH infrastructure with modifications to incentive levels as necessary, as was intended by AB 693. Furthermore, it is clear from the language included in AB 693 that the implementation of the MASHR program “*may* count toward the satisfaction of the commission’s obligation to ensure that specific alternatives designed for growth among residential customers in disadvantaged communities are offered as part of the standard contract or tariff authorized pursuant to [NEM 2.0].”⁴ It is important to note that the language in AB 693 does not signify that the Legislature intended for the MASHR program to serve as the primary or only mechanism for satisfying the requirement for growth in DACs. Moreover, it is likely that significant portions of the residents of DACs do not live in multifamily housing and there may be some DACs that lack affordable housing altogether.

III. Responses to Specific Questions in Ruling

The Ruling posed several questions to stakeholders, which EFCA addresses below.

Affordable Housing Definition

- 1. Section 2870 requires that a property meet the statutory definition of “qualified multifamily affordable housing property” in order to be eligible to receive an incentive from the Program. How should the Program implement this requirement?*

EFCA recommends the same process that is currently necessary to meet the requirements in the MASH program guidebook for documentation of CPUC Code 2852 eligibility in regards to documentation for deed restrictions and regulatory agreements.⁵ Program Administrators

⁴ AB 693, Sec. 3 (quote included in newly established Public Utilities Code Section 2870(b)(1)) (emphasis added).

⁵ MASH Guidebook, 1st Edition, p. 45, Section 4.2.1.5.

(PAs) should be responsible for collecting and verifying this information utilizing the same structure as the checklist referenced in Appendix D of the current MASH guidebook.⁶

2. *Should the Program use the CalEnviroScreen tool developed by the California Environmental Protection Agency to determine the boundaries of “a disadvantaged community, as defined by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code”? Why or why not? If you recommend using another method, please provide sources for the method, a detailed justification for its use, and examples of its potential application to the Program.*

When defining DACs, AB 693 specifically references the interpretation by the California Environmental Protection Agency (CalEPA) of Section 39711 of the Health and Safety Code.⁷ Per its Legislative mandate under SB 535, CalEPA has adopted the CalEnviroScreen for identifying DACs.⁸ EFCA agrees that utilizing the CalEnviroScreen is an effective method for determining the boundaries of DACs considering the intent of the Legislature for this particular program and supports its usage herein. It is also important to recognize that the Legislature clearly did not intend the CalEnviroScreen to be the only method for determining MASHR program eligibility and thus included income-based criteria in Section 2870(a)(3)(B) as a second mechanism for evaluating qualified multifamily affordable housing properties for program participation.

Furthermore, in the broader context of meeting the AB 327 mandate, EFCA believes that the CalEnviroScreen should not be the only component defining DACs. If the Commission uses only the CalEnviroScreen to define DACs, there is a risk of too narrowly focusing the definition of DACs such that communities that are clearly low income will not qualify. For instance, there are several census tracts that would not currently qualify as DACs under the CalEnviroScreen

⁶ *Id.*, Appendix D., pp. 130-32.

⁷ AB 693, Sec. 3 (*see* newly established Public Utilities Code Section 2870(a)(3)(A)).

⁸ California Environmental Protection Agency, Designation of Disadvantaged Communities Pursuant to Senate Bill 535 (Oct. 2014), *available at* <http://www.calepa.ca.gov/EnvJustice/GHGInvest/Documents/SB535DesCom.pdf>.

but are clearly located in low-income communities. In previous comments in this proceeding, several parties advocated that DACs should be “defined as disadvantaged compared with the general California population with regard to both socioeconomic and environmental pollution factors.”⁹ Other parties also previously raised the issue that rural communities may not be accurately represented when using CalEnviroScreen ranking statewide.¹⁰ Therefore, EFCA encourages the Commission to consider broadening the definition of DACs beyond the CalEnviroScreen criteria in the larger context of evaluating the AB 327 mandate while at the same time recognizing that the MASHR program is only one component in a larger portfolio that must be implemented and evaluated to meet AB 327.

3. *What specific types of documentation should an applicant be required to submit in order to demonstrate that it meets all relevant elements of the statutory definition:*
 - a. *The Section 2852(a)(3)(A)(i) definition of “low-income residential housing;”*
 - b. *At least one of: i. Location in a disadvantaged community, as statutorily defined; or ii. At least 80 percent of households have incomes at or below 60 percent of Area Median Income (AMI). Provide a justification for the relevance and sufficiency of each type of documentation identified.**If more than one type of documentation, or alternative forms of documentation, are recommended, please specify whether any type is preferred, and why.*

As referenced above, EFCA believes that the current process outlined in Section 4.2.1.5 in the MASH handbook is sufficient for an applicant to demonstrate that it meets the definition of low income residential housing as defined by Section 2852 (a)(3)(A)(i) and the criteria that it be located in a disadvantaged community or 80% of its residents have an income that is 60% or less of AMI. Documents for verification can include deed restrictions, regulatory agreements and affordability covenants, as previously established in the current MASH handbook. These documents can easily be attached to the application documents and reviewed by the PAs.

⁹ Proposal of the Solar Energy Industries Association and Vote Solar for a Net Metering Successor Standard Tariff, R.14-07-002 (Aug. 3, 2015), pp. 44-45.

¹⁰ *Id.* at p. 45.

4. *If some tenants of an otherwise qualified property are customers of community choice aggregators (CCAs), should this affect the eligibility of the property for the program? Why or why not? Would the number or proportion of tenants who are customers of CCAs be relevant to your recommendation? How?*

As with other programs that are administered by the investor-owned utilities (IOUs) and third-party program administrators, CCA customers should be eligible to participate in the MASHR program. It is inequitable to exclude low-income tenants living in multifamily affordable housing in CCA service territories from the benefits of AB 693 and the funds allocated through the program. Nor does the legislation (AB 693) in any manner prohibit the participation of CCA customers.

Funding Allocation Goals

5. *Should the available incentive funding be allocated as a certain percentage to properties that qualify by virtue of location in a disadvantaged community and to those that qualify by virtue of low-income tenant households? Why or why not?*
- If such a division of incentive funding should be made, should a predetermined fixed division be made (e.g., 50 percent to each type)? What percentage should such a fixed division be? Please provide a detailed justification for the recommended proportions.*
 - Should such a division of incentive funding, if one is made, be determined each program year? For some other time period? Why or why not?*

EFCA does not support a division of incentive funding between disadvantaged communities and low-income tenant households. In establishing the qualification criteria for the program, the Legislature did not indicate a preference for any particular pathway, nor did it indicate that any particular amount of funding should go to projects qualifying via one means over another. Such an arbitrary division could potentially limit the impact of the program to specific areas that are highly dependent on the definitions of DAC utilized in this proceeding. Moreover, dividing the program funding between the qualification pathways could create administrative complications. For example, what would the PAs do if funding in one pathway is not spent? The Commission would need to determine whether that funding would remain

available for some pre-determined amount of time, or whether it would be moved into the other pathway. Such “categorization” of funding is certain to complicate budgeting and tracking of program funds, and it is not clear that there is a need or purpose for doing so.

6. *Should the 300 megawatt (MW) capacity goal be allocated as a certain percentage to properties that qualify by virtue of location in a disadvantaged community and to those that qualify by virtue of low-income tenant households? Why or why not?*
 - a. *If such a division of MW should be made, should a predetermined fixed division be made (e.g., 50 percent to each type)? What percentage should such a fixed division be? Please provide a detailed justification for the recommended proportions.*
 - b. *Should such a division of MW, if one is made, be determined each program year? For some other time period? Why or why not?*

EFCA does not support allocating the 300 MW capacity goal into separate targets for DACs and low income households. In order to ensure cost effective access to solar for both low income and disadvantaged communities, it does not make sense to create separate MW targets. Public Utilities Code Section 2870(a)(3) clearly defines qualified multifamily affordable housing as the following:

"Qualified multifamily affordable housing property" means a multifamily residential building of at least five rental housing units that is operated to provide deed-restricted low income residential housing, as defined in clause (i) of subparagraph (A) of paragraph (3) of subdivision (a) of Section 2852, and that meets one or more of the following requirements:

- (A) The property is located in a disadvantaged community, as identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.
- (B) At least 80 percent of the households have incomes at or below 60 percent of the area median income, as defined in subdivision (f) of Section 50052.5 of the Health and Safety Code.

This definition in AB 693 was intentional in that it covers a broad range of eligible multifamily affordable housing properties across California that can participate in the MASHR

program and allows the market and customer demand to drive deployment toward the 300 MW target. Even if well designed and tied to well formulated analytics, allocating the 300 MW target between DACs and low income could inhibit potential deployment in certain areas over time and cause uncertainty for the developer community. EFCA expects that the program will facilitate deployment of a large amount of solar in both DAC and low-income communities.

The difficulty of determining how to divide the 300 MW target between properties that qualify on the basis of income and those that qualify on the basis of location demonstrates the challenge of attempting to use AB 693 to satisfy part of the DAC requirement in AB 327. Because AB 327 did not establish a numerical goal for solar growth in DACs, but rather directed the Commission to include alternatives “designed for growth among residential customers” in DACs, it would be very difficult for the Commission to apportion part of the AB 693 MWs to DACs and consider those MWs to be satisfying a portion of the AB 327 requirement – since that requirement is simply for “growth” and not for any discreet number of MW.¹¹ Moreover, because many residents of DACs live in single-family housing, the Commission will likely need to set up a separate program targeting DACs in order to ensure that all residents of those communities have equal and fair access to local solar energy. Furthermore, if the Commission establishes a separate program targeting DACs – for example, the “community virtual net metering program” proposed by Energy Division staff in June 2015 – then there is no need to “count” part of the AB 693 program toward that requirement.¹² In short, it would be administratively simpler and fairer to residents of single-family housing in DACs if the

¹¹ See AB 327, Sec. 11, (as codified in Cal. Pub. Util. Code § 2827.1(b)(1)).

¹² See Energy Division Staff Paper Presenting Proposals for Alternatives to the NEM Successor Tariff or Contract for Residential Customers in Disadvantaged Communities in Compliance with AB 327, R.14-07-002 (June 3, 2015), pp. 2-12 – 2-16.

Commission created a separate program targeting DACs and did not attempt to apportion some part of the AB 693 MWs to satisfy the AB 327 requirement.

Incentive Structure

7. *What type of incentive structure should the Commission adopt for the Program? Should the Commission implement an upfront, estimated performance-based incentive, similar to the MASH program, or should a different incentive structure be adopted (e.g., an auction mechanism)? Please describe why your proposed incentive structure would be best suited to achieving the Program goals.*
 - a. *Please describe in detail how your proposal complies with the requirement of Section 2870(f)(4).*
 - b. *If you believe an upfront incentive structure should be adopted, please describe how the incentive level or levels should be determined. Please include quantitative data to support your recommendation.*
 - c. *If you believe a different incentive structure should be adopted, please describe in detail how such a structure would be implemented. Please include quantitative data to support your recommendation*

The current MASH program combines the administrative ease of a one-time rebate disbursement with an incentive structure that provides a higher rebate for systems that benefit tenants through lower electric bills by using the expected performance based buy down (EPBB) incentive mechanism. Due to its proven effectiveness, the Commission should continue to utilize an upfront EPBB incentive payment structure. At the same time, there are several additional components that the Commission should consider when developing the rebate level and appropriate mechanisms to meet the requirements of AB 693. These include:

- Developing a step down incentive based on MW targets tied to 5% decline incentive level, similar to other CSI incentives.
- Distinguishing between solar owned by the host customer and third party owned solar.
- Considering the amount of electricity for the tenant that will be offset by the system and at what cost this should come to the tenant.

For the final point above, AB 693 clearly states that the electricity generated by a solar energy system should be used primarily to offset electricity usage by low-income customers.¹³ Yet given the previous MASH program incentive design distinguishing between above or below 50% tenant benefit, it will be important to determine that classification of “primarily benefit” in terms of percentage threshold for incentive levels. For instance, a system offsetting Virtual Net Metering (VNEM) tenant load with greater than or equal to 75% tenant benefit at \$X per watt could be the lowest percentage threshold for receiving MASHR rebates and a system offsetting VNEM tenant load at 100% tenant benefits could receive the highest \$X per watt incentive.

Given the considerations above, EFCA recommends the incentive structure detailed in the table below.

	MW Target		Incentive \$/W-CEC - AC	
	Common	Tenant	Common	Tenant
Step 1	20.0	60.0	\$ 1.00	\$ 2.25
Step 2	25.0	75.0	\$ 0.95	\$ 2.14
Step 3	31.3	93.8	\$ 0.90	\$ 2.03
Step 4	34.4	103.1	\$ 0.86	\$ 1.93
Step 5	37.8	113.4	\$ 0.81	\$ 1.83

As can be seen from the table, EFCA is proposing an incentive structure that includes 5 steps linked to specific MW targets. EFCA interprets the 300 MW deployment goal under AB 693 as a floor,¹⁴ not a ceiling and given the proper incentive level, the proposed 5-step incentive stepdown can lead to a deployment of over 500MW of solar capacity in the multifamily affordable housing segment. EFCA also assumes that up to \$100 million or 10% of available funds, whichever is less, is authorized by the Commission for allocation through June 30, 2026,

¹³ AB 693, Sec. 3 (as codified in Cal. Pub. Util. Code § 2870(f)(2)).

¹⁴ AB 693, Sec. 1(f) (“It is the goal of the state to install qualifying solar energy systems that have a generating capacity equivalent to *at least* 300 megawatts for the express purpose of lowering the energy bills of tenants at low-income multifamily housing.” (emphasis added)).

after the program re-evaluation after 2020.¹⁵ The MW targets are further split between common area and tenant benefit systems. This is to ensure that if the market chooses to finance its own common area systems, it is important to not have those MW targets take up the tenant rebate step down. Each of the steps reflects a higher mix of tenant benefit MW target, which aligns with the programs overall strategy to primarily provide tenant benefit. In order to accommodate the budget of up to \$100 million annually over 10 years, for steps 1 to 3, the target increases by 25% year over year and for steps 4 to 5, the target increase by 10% year over year. Finally, the rebate is discounted by 5% at each step down.

For the incentive level, EFCA recommends an initial incentive at \$2.25/W-CEC-AC for solar capacity that offsets tenant load (i.e. provides tenant benefit). This is 25% above the current MASH incentive level (Track 1D) and is able to provide at least 25% more tenant benefit. Providing at least 25% more tenant benefits aligns with the goal of the program to primarily offset electricity usage by low-income tenants. EFCA proposes the initial incentive level for solar capacity that offsets common area load at \$1.00/W-CEC-AC, which is a 10% decrease from the current MASH rebate for common area load.

Energy Storage

8. *Would a solar energy system paired with a storage device meet the definition in Section 2870(a)(4) of “solar energy system”? Why or why not?*

EFCA does not have a comment at this time but reserve the right to respond in reply comments.

¹⁵ AB 693 states that “(c) The commission shall annually authorize the allocation of one hundred million dollars (\$100,000,000) or 10 percent of available funds, whichever is less, from the revenues described in subdivision (c) of Section 748.5 for the Multifamily Affordable Housing Solar Roofs Program, beginning with the fiscal year commencing July 1, 2016, and ending with the fiscal year ending June 30, 2020. The commission shall continue authorizing the allocation of these funds through June 30, 2026, if the commission determines that revenues are available after 2020 and that there is adequate interest and participation in the program.” (codified in Cal. Pub. Util. Code § 2870(c)).

9. *If you believe that a solar energy system paired with a storage device meets the Section 2870 definition, should the Commission adopt incentive levels or structures for these projects that differ from the incentive structure that you have recommended in response to Question 7 for systems without storage? If so, how should the incentives differ? Please be specific and provide quantitative examples if relevant*

CSI/MASH

10. *Which, if any, features of the California Solar Initiative (CSI) and Multifamily Affordable Solar Homes (MASH) programs should be continued under the Program?*

EFCA strongly supports the continuation of the current MASH program structure with minor modifications and encourages continued utilization of the PowerClerk system. In addition, EFCA recommends that solar providers offer a 10-year guarantee of some minimum level of system performance, so that regulators can be sure systems are producing the expected amount of energy. Finally, EFCA suggests removing the 1MW cap since NEM tariff eligibility is no longer restricted by the 1 MW cap.

Third Party Ownership

11. *How should the requirements regarding third-party owned systems set out in Section 2870(f)(3) be implemented? Please specifically address at least the following statutory requirements:*
- Enforcing contractual restrictions that ensure no additional costs are passed on to low-income tenants.*
 - Requirement that third-party system owners provide ongoing operations and maintenance of the system, monitor energy production and ensure that projected system production is achieved.*

EFCA believes the current MASH program has adequate enforcement of contractual restrictions to ensure no additional costs are passed on to low-income tenants.

In addition to the existing MASH requirements, EFCA believes that third-party providers should be required to provide a performance guarantee. There are two components that should be included in a standard performance guarantee:

- A kWh production guarantee throughout the term of the contract

- A monetary payment made to the host customer that is associated with any underproduction

Furthermore, providers should be required to submit a signed copy of the performance guarantee as a proof of project milestone similar as to what is done currently in the MASH program with the submittal of the Power Purchase Agreement (PPA). Some third party providers are already utilizing performance guarantee as a standard practice under the current MASH program so EFCA does not see this as a barrier to participation as it is generally in line with current processes.

Local Hiring Requirements

12. *What types of local hiring requirements should be adopted?*
 - a. *How should the local hiring requirements be designed to ensure that they “provide economic development benefits to disadvantaged communities”? Please address, among other things, whether the requirements should be focused on hiring residents of disadvantaged communities and/or on businesses located in disadvantaged communities.*
 - b. *Should these requirements include job training requirements similar to MASH?*

The current MASH program contains a job training requirement, which is an important component of the current MASH. EFCA is proposing two modifications that we believe will increase its success in providing tangible opportunities and helping the job trainee build a long-term skill set. First, EFCA would like to encourage allowing more flexibility on headcount by moving away from the minimum number of job training opportunities (JTO) requirement per job and focus the program more on an hour minimum. For example, under the current MASH program, for projects covering system sizes of 40kW or greater, five JTOs and no less than 40 hours is required.¹⁶ This 40 hour requirement could either be filled by five JTOs training for eight hours each or under EFCA’s proposal, by one JTO training for 40 hours. By allowing one

¹⁶ MASH Handbook, 1st Edition, p. 23.

JTO the opportunity to work on a project for 40 hours, the JTO would walk away with much more tangible benefits and greater experience. Furthermore, EFCA would like to expand the list of job training opportunities to include data analysis and modeling regarding project impact as part of the project design/project engineering category as this is a critical skill a job trainee can acquire.

Offset Tenant Electricity Use

13. *How should the Commission implement the requirement that the electricity generated by incentivized systems “be primarily used to offset electricity usage by low-income tenants”? Please address at least the following:*
- a. *Should all, or a percentage of, electricity generated by the system offset low-income tenants’ usage? Please provide a justification, including quantitative examples if relevant, for your recommendation.*
 - b. *If you believe only a percentage of electricity generated by the system should be required to offset usage by low-income tenants, please propose and justify a method for allocating the percentage, including quantitative examples.*
 - c. *How should the Program Administrator(s) verify that electricity generated by incentivized systems is offsetting electricity usage by low income tenants? In your response, please discuss at least:*
 - i. *The role of utility allowances, and*
 - ii. *Required covenants or restrictions in deeds.*
 - d. *Which utility tariffs and credits should qualify as meeting the requirements of Section 2870(g)(1)? Please identify any other issues of coordination with current utility tariffs and credits that should be considered in the implementation of the Program.*

In passing AB 693, the California Legislature expressed a clear intent that “electricity generated by qualifying renewable energy systems installed pursuant to the program be primarily used to offset electricity usage by low-income tenants.”¹⁷ Under the current MASH handbook, to “demonstrate that this requirement has been met, the Host Customer must sign an Affidavit Ensuring Economic Tenant Benefit in addition to the completed VNM Allocation Form

¹⁷ AB 693, Sec. 3 (as codified in Cal. Pub. Util. Code § 2870(f)(2)) (emphasis added).

Similar.”¹⁸ The same affidavit mechanism can be used by PAs going forward. Furthermore, the program should continue using the current MASH Virtual Net Metering (VNEM) tariff.

EFCA would like to point out that very often there will not be adequate space to install enough solar PV to fully offset tenant electricity bills. For these tenants – and for low-income renters in single-family homes – a community solar-based project is the only way to deliver electric bill savings. For this reason, EFCA strongly urges adoption of a local renewable tariff that enables off-site community solar projects to benefit low income renters, including those living in single-family homes. Such a tariff can and should be established as part of the Commission’s mandate to fully implement the DAC requirement in AB 327.

Ensure Direct Tenant Benefit

- 14. How should the Commission address the requirements of Section 2870(g)(2)?*
- a. Which existing tariffs could this requirement implicate? Please specifically describe the relationship of Section 2870(g)(2) to each tariff identified.*
 - b. How should the Commission account for the impact of potential changes to utility tariffs being considered in other proceedings or contexts (e.g., residential rate redesign) on the obligation set out in Section 28709(g)(2)?*

EFCA would like to address this issue in the context of non-bypassable charges (NBCs) that are now required to be paid by all net energy metered systems on net energy consumption under D.16-01-044, which notes that “the same requirements regarding non-bypassable charges and interconnection costs as systems under the standard successor tariff” will be applied to VNEM.¹⁹ In addition, the decision required that “IOUs must provide a transparent methodology for recovery of NEM successor tariff non-bypassable charges from VNEM customers.”²⁰ EFCA would urge the Commission to consider an exemption for MASHR VNEM customers on applicable NBCs.

¹⁸ MASH handbook, p. 25, Appendix E.

¹⁹ D.16-01-044, pp. 98-99.

²⁰ *Id* (note 114).

The NBCs that net metering customers are required to pay under D. 16-01-044 include the Public Purpose Program, Nuclear Decommissioning, Competition Transition and Department of Water Resources Bond charges.²¹ While most NEM customers will pay these charges only on the portion of their solar generation that is exported to the grid – around 50% of generation for the average customer – VNEM customers effectively pay these charges on 100% of solar generation, which could add up to a significant portion of the customer’s bill. Thus, the Commission could further assist low-income multi-family customers by exempting them from paying all or a portion of these charges. For example, the Commission may wish to discount NBCs for MASHR VNEM customers by 50% such that they are treated roughly the same as NEM single family customers who deploy solar on their rooftops.

Incentive Payment Third Party Owner, Installer or Developer

15. Should the Program include a limit on the amount of incentive payments that can be paid to projects developed by any one third-party owner, supplier or installer of qualified solar energy systems? Why or why not? If there should be such a limit, how should it be determined?

EFCA does not believe an arbitrary limit should be placed on incentive payments to projects developed by any one third-party owner, supplier, or installer. Obtaining MASH incentives is a competitive process that is driven by the marketplace. As is done under the current MASH program, the rebate belongs to the host customer, who is able to pick which solar provider or third party owner he wants to work with. Setting limits on any one participant will not further the goals of the MASHR program including reaching the 300 MW target.

16. Should the Program include a limit on the number of MW for which projects developed by any one third-party owner, supplier or installer of qualified solar energy systems may be paid with Program incentives? Why or why not? If there should be such a limit, how should it be determined?

²¹ *Id.* at p. 89, 112 (Finding of Fact 42).

Similar to EFCA's response to question 15, EFCA does not believe setting a MW limit will be productive in ensuring the MASHR program meets its 300 MW target in the most cost effective manner. By allowing the market place to compete for incentives and put forth the most cost effective projects that provide maximum low income tenant benefits, the MASHR program will continue to thrive and maximize overall ratepayer benefit.

Program Administration

17. *What program administration structure should be adopted? Please address at least the following with specificity:*
- Both the benefits and the drawbacks of utility administration;*
 - Both the benefits and the drawbacks of third-party administration;*
 - Both the benefits and the drawbacks to selecting one statewide administrator*
 - Both the benefits and the drawbacks of selecting different administrators in each utility territory*
 - If you believe a third-party administrator should be selected through a competitive bidding process, what criteria should be used to evaluate proposals?*
 - What, if any, program rules or funding/budget specifications would be affected by your recommendation for administrative structure?*

EFCA recommends the MASHR program under AB 693 continue to utilize the same PA structure as the current MASH program in order to facilitate a smooth transition in implementing the new program and also making it as timely as possible. Altering the PA structure could unnecessarily delay the implementation process because additional costs and barriers that may occur are unknown.

Funding Authorization

18. *In D.12-12-033, the Commission established a framework for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Liberty Utilities (CalPeco Electric) LLC (Liberty), and PacifiCorp to distribute proceeds of greenhouse gas (GHG) allowances allocated to electric investor-owned utilities (IOUs) in furtherance of the goals of AB 32 (Nuñez/Pavley), Stats. 2006, ch.488 (the Global Warming Solutions Act of 2006), to their customers. The GHG allowance proceeds identified in Section 748.5 and called out in Section 2870 are those of "an electrical corporation," a category that includes all five utilities listed above*

- a. *Should PG&E, SCE, SDG&E, Liberty, and PacifiCorp all be required to contribute GHG allowance proceeds to fund the Program? Why or why not?*
- b. *Should incentives from the Program be available to eligible projects in the service territories of all five utilities? Why or why not?*
- c. *If you believe that any of the five IOUs should be exempt from contributing to and/or having projects in their service territories participate in the Program, please provide an explanation for the recommended exemption(s).*

Administrative Law Judge McKinney's Ruling on March 18, 2016 established that Liberty and PacifiCorp GHG allowance proceeds may be part of the funds for the implementation of AB 693 in addition to the three largest IOUs' proceeds.²² If incentives to participate in the program are available for projects in all five utilities' service territories, then all five utilities should be required to contribute GHG allowance proceeds to fund the program. EFCA does not see a compelling reason why eligible projects in all five utilities' service territories should not be allowed to participate in the program.

19. *Section 2870(c) directs the Commission to annually authorize "the allocation of one hundred million dollars (\$100,000,000) or 10 percent of available funds, whichever is less, from the revenues described in subdivision (c) of Section 748.5," to fund the Program. The statute also allows up to 10 percent of total funds allocated to the Program to be used for administration.*

- a. *If the annual allocation of funds is \$100,000,000 (because this amount is less than 10 percent of available funds), how should each IOU's contribution be determined (e.g., based on retail sales, based on another methodology)? Please provide a detailed explanation for the method chosen. Please provide quantitative examples, including a complete calculation with your recommended method.*
- b. *If the annual allocation of funds is 10 percent of available funds (because this amount is less than \$100,000,000), how should each IOU's contribution be determined (e.g., based on retail sales, based on another methodology)? Please provide a detailed explanation for the method chosen, including the calculation of "10 percent of available funds." Please provide quantitative examples, including a complete calculation with your recommended method.*
- c. *While AB 693 discusses the Program budget in terms of fiscal years (see, e.g., Section 2870(c)), IOUs record and distribute GHG allowance proceeds over the course of a calendar year. Do funding calculations need to account for this timing difference? If so, how? Please provide quantitative examples, if relevant.*
- d. *Since the amount of annual GHG allowance proceeds in future years is unknown, the amount of funding available for the Program each year cannot be specified in*

²² ALJ's Ruling, R.14-07-002 (Mar. 18, 2016), p. 2, available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M159/K625/159625681.PDF>.

advance. How should budgets for the Program be determined in the context of this uncertainty? Please provide specific justifications for your proposed method.

- e. What types of activities should administration funds be used for? Please specifically address at least: program administration; measurement and evaluation; and marketing and outreach.*
- f. What proportion of the total Program budget (not exceeding 10 percent) should be allocated to administration? Please justify the number chosen with reference to the activities identified in response to Question 22e.*

Given the requirements under Sec. 748.5, each IOU's contribution to annual allocation of funds should be based on retail sales in the prior year. In the use of administration funds, EFCA would prioritize actual program administration over measurement and evaluation and marketing and outreach. Allocating sufficient funds to administration of the program itself (under the 10% limit) is critical to making the program run smoothly and cost effectively in order for applications and incentives to be processed in a timely manner without delays. Per statute, no more than 10% is authorized annually to be utilized for program administration. While 10% is the ceiling, it should not be assumed that 10% will be needed annually to administer the program. Therefore, annual justifications should be provided by PAs for program administration budgets.

- 20. What is the appropriate regulatory accounting mechanism for the IOUs to use to set aside GHG allowance proceeds for the Program? Please explain in detail the basis for your recommendation.*

EFCA does not see the need to establish a special accounting mechanism for this program. The Commission and the California Air Resources Board (CARB) should work together to ensure the program is receiving the correct share of the GHG allowance proceeds through an effective mechanisms established by the IOUs.

- 21. The California Air Resources Board's Cap-and-Trade Regulation prevents utilities from publicly disclosing auction bidding information, including intent to participate in an auction, bidding strategy, and bid quantity information (17 CCR § 95914 (c)(1)). How should the Commission take this requirement into account in structuring the funding and budgeting for the Program?*

EFCA suggests utilizing CARB’s current requirements, and only using the proceeds of the auction to fund the program.

Energy Efficiency Requirements

22. *The Commission is required to establish energy efficiency requirements for the Program.*
- a. *How should such energy efficiency requirements be determined? Should the Commission simply adopt requirements equal to those in Section 2852? Why or why not?*
 - b. *If the Commission should adopt different energy efficiency requirements, how should those requirements be determined?*
 - c. *What documentation should applicants be required to provide of compliance with the requirements set in accordance with Section 2870(f)(7)?*

EFCA recommends utilizing the energy efficiency requirements currently applicable to MASH participants under the MASH handbook. AB 693 states that “ the Commission shall establish energy efficiency requirements that are equal to the energy efficiency requirements established for the program...including participation in a federal, state or utility funded energy efficiency program or documentation of a recent energy efficiency retrofit.”²³ The current requirements in the MASH handbook including an energy efficiency walkthrough audit or enrollment in either a utility, a regional energy network (REN), CCA or federally provided whole-building multifamily energy efficiency program is sufficient to meet the intent of AB 693.

Interim Targets

23. *Should the Commission establish interim targets for the installation of capacity under the Program? Why or why not? How should such interim goals, if they are appropriate, be determined?*

EFCA does not see the need to establish separate, interim targets for the installation capacity. Under other programs, such as the California Solar Initiative (CSI), interim targets are tied to incentive level step downs. EFCA has therefore proposed a five level incentive step down for the program based on MW targets split between common area and tenant benefit. This is an

²³ MASH Handbook, 1st Edition, p. 22, Section 2.3.1-2.3.2.

effective manner for the Commission to ensure the 300 MW target is met. Please see EFCA's response to Question 7 for additional details on incentive step down structure based on program goals, budget and tenant vs. common area benefit.

Data Collection/Reporting

24. What types of data collection and reporting requirements should the Commission adopt for the Program? Please include a discussion of whether data from the Program should be reported on the Cal DG Stats website that is currently under development and intended to replace the current California Solar Statistics website.

In addition to the reporting requirements under the current MASH handbook and the assessment to the Legislature every three years as described in AB 693, EFCA would like to see public reporting on the percent of solar going to tenants (which is already reported by providers to PAs) in the form of solar PV allocation percentage for tenants. It would be helpful for this data to be publicly available on the Cal DG stats website so that all parties have equal access to information.

Safety Issues

25. What safety issues should be considered in the implementation of the Program? Please specify who should be responsible for meeting any safety requirements you identify (e.g., applicant, utility, supplier of solar energy system, etc.)

EFCA does not believe that any additional safety issues need to be considered at this time. Interconnection rules under Rule 21 cover safety issues and EFCA believes it is efficient to keep all safety rules in one location.

Additional Items

26. Please identify and, if relevant, comment on any additional topics related to implementation of the Program that are not addressed in the questions above.

Under the current requirements for solar energy systems that are applicable to be eligible for the NEM and VNEM tariffs, it requires that the "solar energy system be located on the same

premises of the end use customer where the consumers own electricity demand is located.”²⁴

EFCA sees a large market opportunity in the low income and DAC space to consider offsite, community VNEM. For multifamily housing units where there is not enough space for rooftop installations or carports on-site, an off-site community option will be valuable. While EFCA understands that it may not be appropriate to address the “offsite” issue in the current implementation for AB 693, we urge the Commission re-consider this limitation when re-evaluating the MASH program in three years (per statutory requirement) or when delving into the larger discussion of meeting the DAC growth requirement under AB 327 as part of the current proceeding.

Additionally, EFCA has become aware of a data access issue that should be resolved in the MASHR program. Currently, energy usage data for multifamily housing properties is not available to solar providers without receiving consent from each individual tenant. Aggregated data for the whole building is currently requested by solar providers to establish the proper solar system size. Even though the request is for aggregated data, utilities have to date not provided such data stating that such data is subject to customer privacy concerns. Since aggregated data cannot be traced back to the individual customer, EFCA does not agree with this justification and urges the Commission to allow solar providers to receive energy usage data in aggregate form without individual tenant consent.

V. Conclusion

EFCA thanks the Commission for the opportunity to comment on implementation of AB 693, which is critical to incentivizing adoption of solar energy in low income communities across the state. AB 693 was envisioned to be a continuation of the successful MASH program

²⁴ Cal. Pub. Util. Code § 25782(a)(5).

which was quickly subscribed when it last opened applications for reservations demonstrating the increased interest in this market segment and the need for additional incentive funding. While EFCA agrees that AB 693 implementation is one component to meeting the DAC goals under AB 327, it is not the only mechanism that should be established to do so. In order to reach the 300 MW deployment target espoused by AB 693, it is critical that the program is implemented fairly and expeditiously all the while maximizing stakeholder input.

Respectfully submitted this August 3, 2016 at San Francisco, California,

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